



The Bid Protest Mechanism: Effectiveness and Fairness in Defense Acquisitions?

Steven Maser

Fred Thompson

Vladimir Svubbotin

Center for Governance and Public Policy Research

Atkinson Graduate School of Management

Willamette University 900 State Street Salem, Oregon 97301

Transforming existing states into preferred ones.

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE MAY 2010		2. REPORT TYPE		3. DATES COVERED 00-00-2010 to 00-00-2010	
4. TITLE AND SUBTITLE The Bid Protest Mechanism: Effectiveness and Fairness in Defense Acquisitions?				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Willamette University, Center for Governance and Public Policy Research, 900 State Street, Salem, OR, 97301				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES 7th Annual Acquisition Research Symposium to be held May 12-13, 2010 in Monterey, California. U.S. Government or Federal Rights License					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 14	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			



Source Solicitation Wonderland





Key questions

- Is the bid protest mechanism effective?
- Is the bid protest mechanism fair?



Sources of Information

- 25+ interviews
- Bid protest decisions by GAO and COFC 2001-2009
- Government contracts from FEDMINE.US; FPDS; Hoovers



Interview Evidence

- Process perceived to be fair
- Unfair results due to inexperience more than bias
- Rejected offerors protest for reasons other than quality or fairness of the protest
- Size matters
- Complexity of projects invites protests



Hypotheses

- More bidders, more likelihood of protest: yes
- Greater complexity, more likelihood of protest: not confirmed
- Smaller the bidder, greater likelihood of protest: yes
- U.S. rejected offerer more likely to protest than international: yes

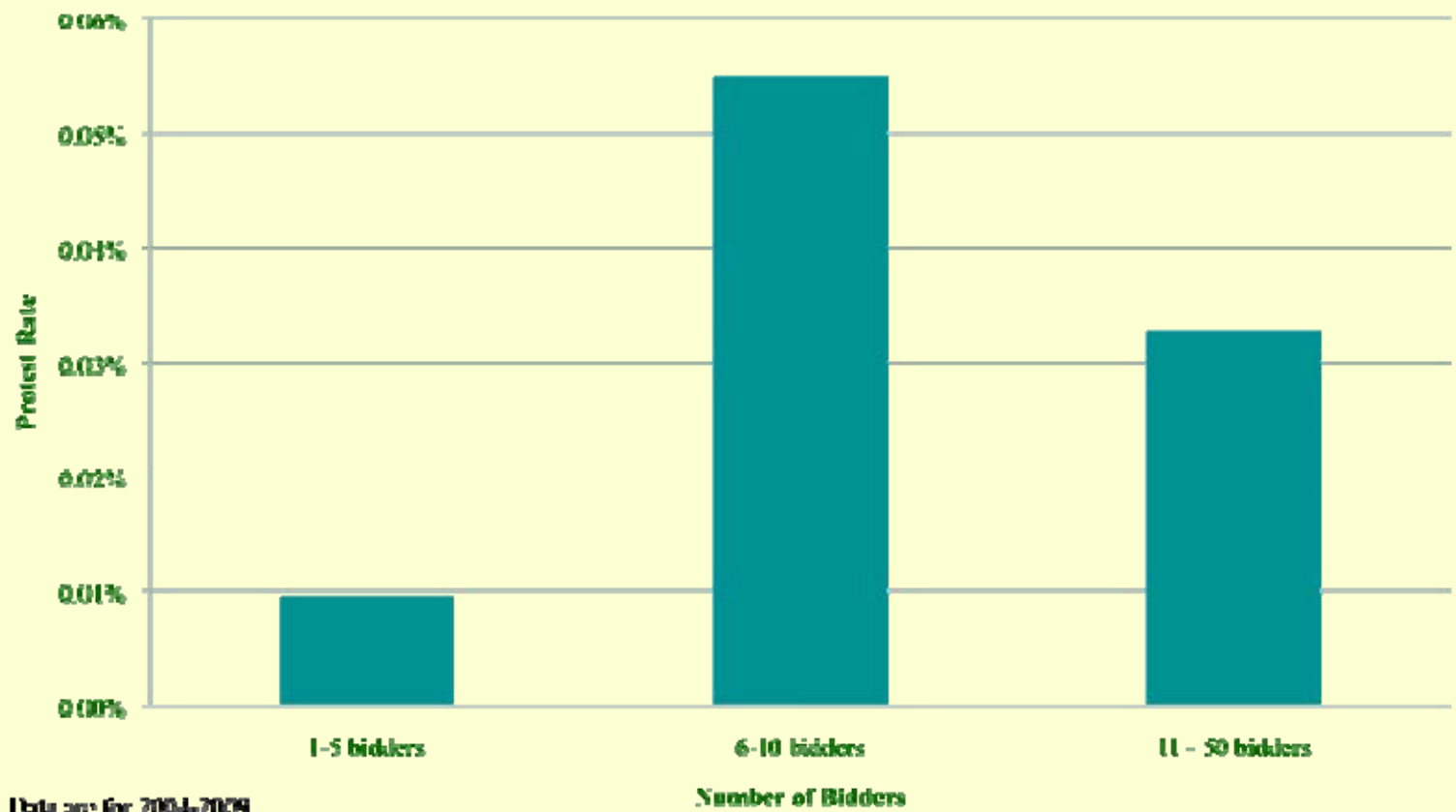


Corollaries

- Sustain rate unrelated to number of bidders: no, it is
- Greater the project complexity, greater the sustain rate: yes
- Small bidder protests less likely to be sustained than large bidder: yes
- Sustain rate unrelated to domestic vs. international protestor: No, it is

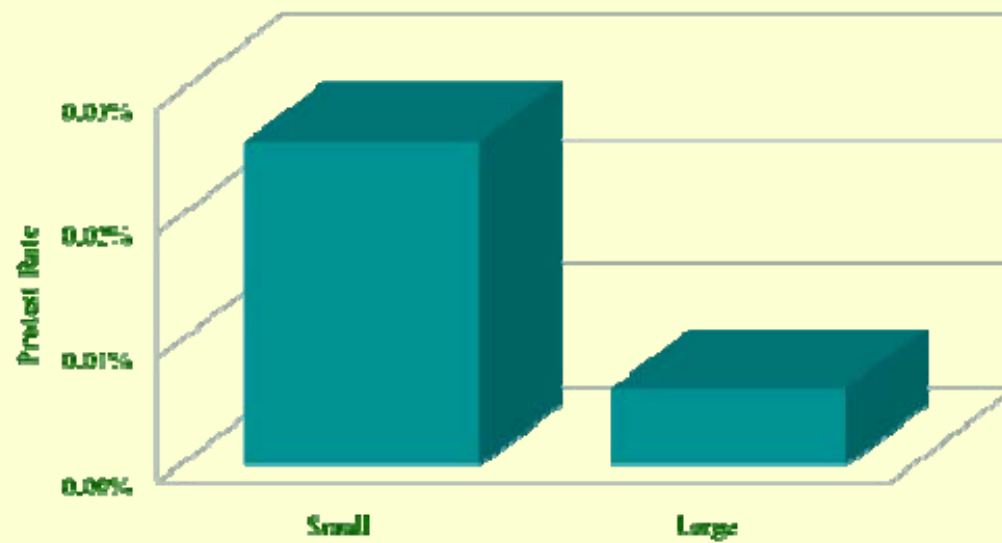


Distribution of Protest Rate by Number of Bidders





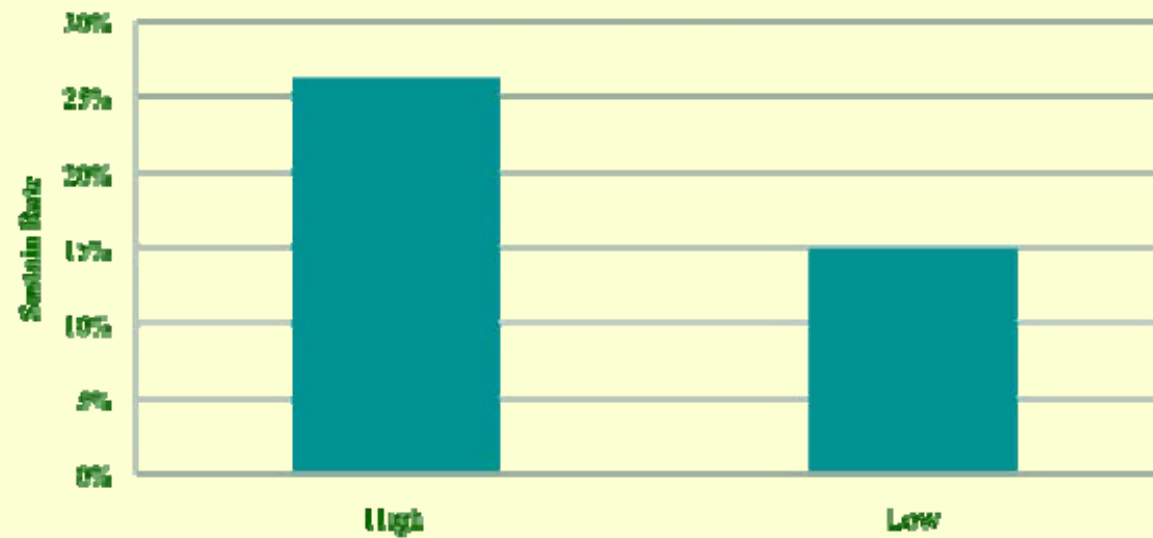
Distribution of Protest Rate by Company Business Size



Data used for 2004-2009



Distribution of the Sustain Rate by Level of the Complexity of the Contract

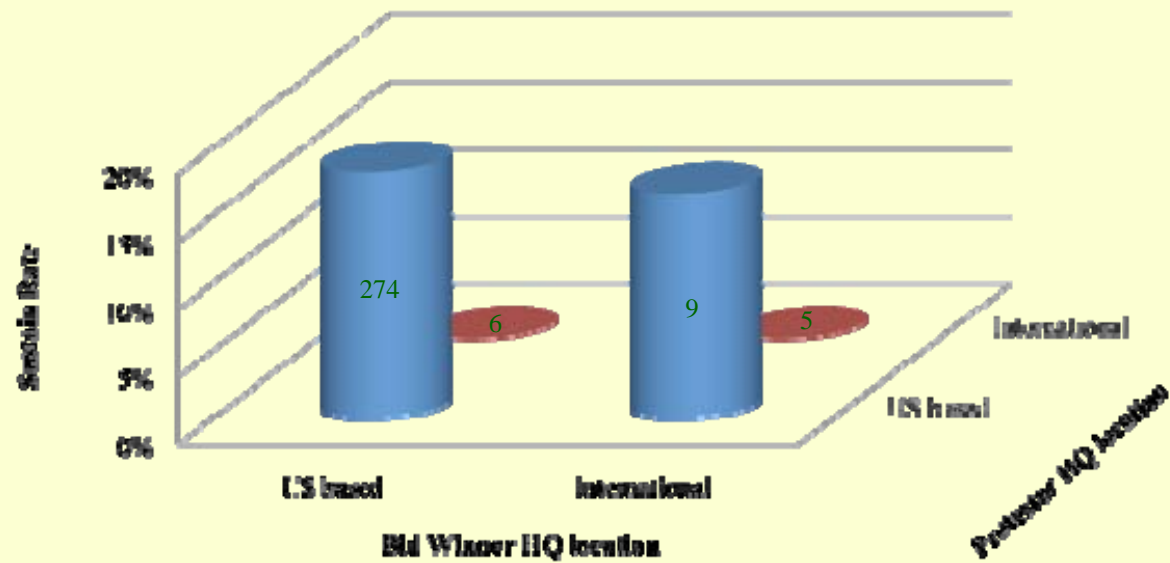


Data are for 2004-2009

Median Information: 50 out of 642 cases = 7%



Sustain Rate Distributed by Protester and Bid Winner HQ location

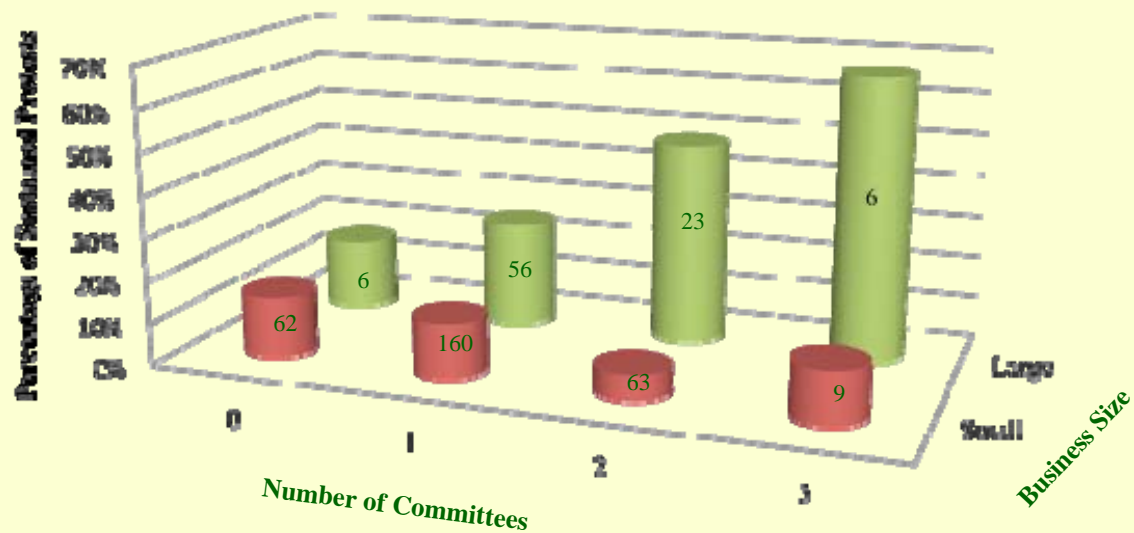


Data are for 2004-2009

Missing information: 96 out of 491 cases - 20%



Sustain Rate of the GAO Protests Distributed by Protester Business Size and Number of Defense Committees where Protestor has members from its Congressional District



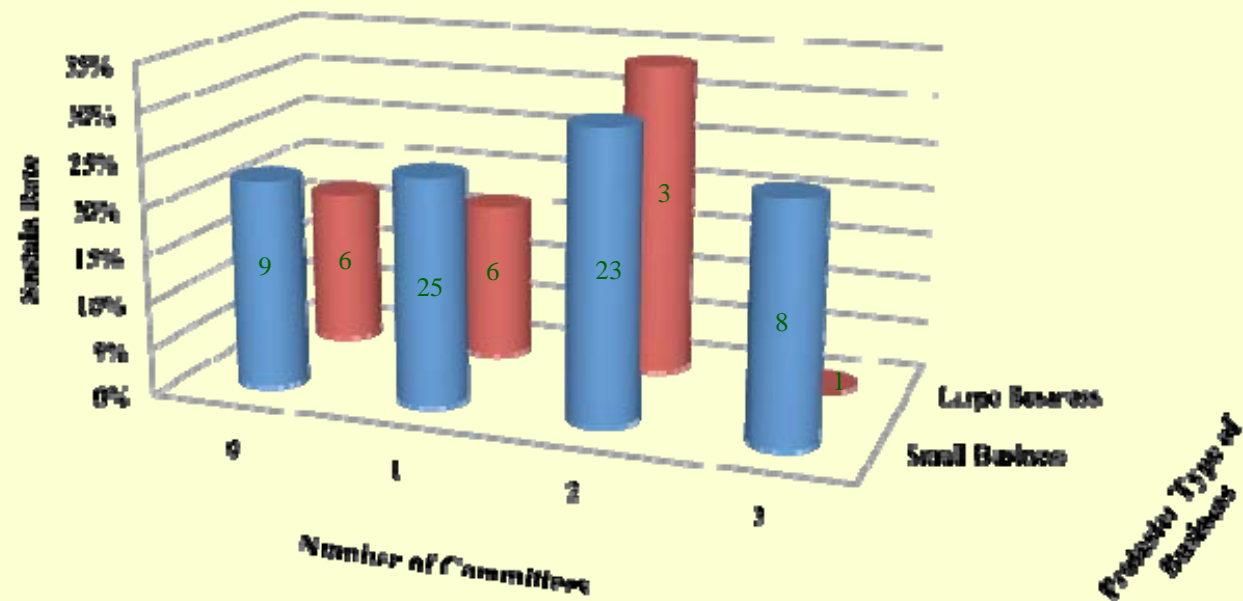
Data are for 2004-2009

Missing Information: Missing Protester Number of FTEs: 138 out of 642 cases - 11.1%

Missing Protestor HQ location: 150 out of 642 cases - 19.7%



**Sustain Rate of the COFC Petitions Distributed by Protester Business Type
and Number of Defense Committees where Protestor Company has members
from its Congressional District**



Data are for 2004-2009

Missing Information: 112 out of 293 cases: 58%



Recommendations to Retain Effectiveness/Improve Fairness

- Increase transparency through debriefings
- Implement more ADR
- Improve information for monitoring and GAO consistency in decisions